

Calendar No. 119

104TH CONGRESS
1ST SESSION

S. 267

[Report No. 104-91]

A BILL

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

May 26 (legislative day, May 15), 1995
Reported with amendments

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IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 10), 1995

Mr. STEVENS (for himself, Mr. KERRY, Mr. GORTON, Mrs. MURRAY, Mr. MURKOWSKI, and Mr. BREAU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MAY 26 (legislative day, MAY 15), 1995

Reported by Mr. PRESSLER, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fisheries Act of
3 1995”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHERIES LICENSING

Sec. 101. Short title.
Sec. 102. Purpose.
Sec. 103. Definitions.
Sec. 104. Licensing.
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Sec. 106. Unlawful activities.
Sec. 107. Enforcement provisions.
Sec. 108. Civil penalties and license sanctions.
Sec. 109. Criminal offenses.
Sec. 110. Forfeitures.
Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MUL-
TILATERAL COOPERATION IN THE NORTHWEST ATLANTIC
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Sec. 201. Short title.
Sec. 202. Representation of United States under convention.
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Sec. 208. Consultative committee.
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Sec. 210. Definitions.
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TITLE III—ATLANTIC TUNAS CONVENTION ACT

Sec. 301. Short title.
Sec. 302. Research and monitoring activities.
Sec. 303. Advisory committee procedures.
Sec. 304. Regulations.
Sec. 305. Fines and permit sanctions.
Sec. 306. Authorization of appropriations.
Sec. 307. Report and certification.
Sec. 308. Management of Yellowfin Tuna.

TITLE IV—FISHERMEN’S PROTECTIVE ACT

- Sec. 401. Findings.
- Sec. 402. Amendment to the Fishermen's Protective Act of 1967.
- Sec. 403. Reauthorization.
- Sec. 404. Technical corrections.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

- Sec. 501. Short title.
- Sec. 502. Fishing prohibition.

TITLE VI—DRIFTNET MORATORIUM

- Sec. 601. Short title.
- Sec. 602. Findings.
- Sec. 603. Prohibition.
- Sec. 604. Negotiations.
- Sec. 605. Certification.
- Sec. 606. Enforcement.

TITLE VII—GOVERNING INTERNATIONAL FISHERY AGREEMENT

- Sec. 701. Agreement with Estonia.

1 **TITLE I—HIGH SEAS FISHERIES**

2 **LICENSING**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “High Seas Fisheries
5 Licensing Act of 1995”.

6 **SEC. 102. PURPOSE.**

7 It is the purpose of this Act—

8 (1) to implement the Agreement to Promote
9 Compliance with International Conservation and
10 Management Measures by Fishing Vessels on the
11 High Seas, adopted by the Conference of the Food
12 and Agriculture Organization of the United Nations
13 on November 24, 1993; and

1 (2) to establish a system of licensing, reporting,
2 and regulation for vessels of the United States fish-
3 ing on the high seas.

4 **SEC. 103. DEFINITIONS.**

5 As used in this Act—

6 (1) The term “Agreement” means the Agree-
7 ment to Promote Compliance with International
8 Conservation and Management Measures by Fishing
9 Vessels on the High Seas, adopted by the Con-
10 ference of the Food and Agriculture Organization of
11 the United Nations on November 24, 1993.

12 (2) The term “FAO” means the Food and Ag-
13 riculture Organization of the United Nations.

14 (3) The term “high seas” means the waters be-
15 yond the territorial sea or exclusive economic zone
16 (or the equivalent) of any nation, to the extent that
17 such territorial sea or exclusive economic zone (or
18 the equivalent) is recognized by the United States.

19 (4) The term “high seas fishing vessel” means
20 any vessel of the United States used or intended for
21 use—

22 (A) on the high seas;

23 (B) for the purpose of the commercial ex-
24 ploitation of living marine resources; and

1 (C) as a harvesting vessel, as a mother
2 ship, or as any other support vessel directly en-
3 gaged in a fishing operation.

4 (5) The term “international conservation and
5 management measures” means measures to conserve
6 or manage one or more species of living marine re-
7 sources that are adopted and applied in accordance
8 with the relevant rules of international law, as re-
9 flected in the 1982 United Nations Convention on
10 the Law of the Sea, and that are recognized by the
11 United States. Such measures may be adopted by
12 global, regional, or sub-regional fisheries organiza-
13 tions, subject to the rights and obligations of their
14 members, or by treaties or other international agree-
15 ments.

16 (6) The term “length” means —

17 (A) for any high seas fishing vessel built
18 after July 18, 1982, 96 percent of the total
19 length on a waterline at 85 percent of the least
20 molded depth measured from the top of the
21 keel, or the length from the foreside of the stem
22 to the axis of the rudder stock on that water-
23 line, if that is ~~greater~~. *In greater, except that in*
24 ships designed with a rake of keel the waterline

1 on which this length is measured shall be par-
2 allel to the designed waterline; and

3 (B) for any high seas fishing vessel built
4 before July 18, 1982, registered length as en-
5 tered on the vessel's documentation.

6 (7) The term "person" means any individual
7 (whether or not a citizen or national of the United
8 States), any corporation, partnership, association, or
9 other entity (whether or not organized or existing
10 under the laws of any State), and any Federal,
11 State, local, or foreign government or any entity of
12 any such government.

13 (8) The term "Secretary" means the Secretary
14 of Commerce.

15 (9) The term "vessel of the United States"
16 means—

17 (A) a vessel documented under chapter
18 121 of title 46, United States Code, or num-
19 bered in accordance with chapter 123 of title
20 46, United States Code;

21 (B) a vessel owned in whole or part by—

22 (i) the United States or a territory,
23 commonwealth, or possession of the United
24 States;

1 (ii) a State or political subdivision
2 thereof;

3 (iii) a citizen or national of the United
4 States; or

5 (iv) a corporation created under the
6 laws of the United States or any State, the
7 District of Columbia, or any territory,
8 commonwealth, or possession of the United
9 States; unless the vessel has been granted
10 the nationality of a foreign nation in ac-
11 cordance with article 92 of the 1982 Unit-
12 ed Nations Convention on the Law of the
13 Sea and a claim of nationality or registry
14 for the vessel is made by the master or in-
15 dividual in charge at the time of the en-
16 forcement action by an officer or employee
17 of the United States authorized to enforce
18 applicable provisions of the United States
19 law; and

20 (C) a vessel that was once documented
21 under the laws of the United States and, in vio-
22 lation of the laws of the United States, was ei-
23 ther sold to a person not a citizen of the United
24 States or placed under foreign registry or a for-

1 eign flag, whether or not the vessel has been
2 granted the nationality of a foreign nation.

3 (10) The terms “vessel subject to the jurisdic-
4 tion of the United States” and “vessel without na-
5 tionality” have the same meaning as in section
6 ~~1903(c) of title 46, United States Code Appendix.~~
7 *3(c) of the Maritime Drug Law Enforcement Act (46*
8 *U.S.C. App. 1903(c)).*

9 **SEC. 104. LICENSING.**

10 (a) IN GENERAL.—No high seas fishing vessel shall
11 engage in harvesting operations on the high seas unless
12 the vessel has on board a valid license issued under this
13 section.

14 (b) ELIGIBILITY.—

15 (1) Any vessel of the United States is eligible
16 to receive a license under this section, unless the
17 vessel was previously authorized to be used for fish-
18 ing on the high seas by a foreign nation, and

19 (A) the foreign nation suspended such au-
20 thorization because the vessel undermined the
21 effectiveness of international conservation and
22 management measures, and the suspension has
23 not expired; or

24 (B) the foreign nation, within the last
25 three years preceding application for a license

1 under this section, withdrew such authorization
2 because the vessel undermined the effectiveness
3 of international conservation and management
4 measures.

5 (2) The restriction in paragraph (1) does not
6 apply if ownership of the vessel has changed since
7 the vessel undermined the effectiveness of inter-
8 national conservation and management measures,
9 and the new owner has provided sufficient evidence
10 to the Secretary demonstrating that the previous
11 owner or operator has no further legal, beneficial or
12 financial interest in, or control of, the vessel.

13 (3) The restriction in paragraph (1) does not
14 apply if the Secretary makes a determination that
15 issuing a license would not subvert the purposes of
16 the Agreement.

17 (4) The Secretary may not issue a license to a
18 vessel unless the Secretary is satisfied that the
19 United States will be able to exercise effectively its
20 responsibilities under the Agreement with respect to
21 that vessel.

22 (c) APPLICATION.—

23 (1) The owner or operator of a high seas fish-
24 ing vessel may apply for a license under this section

1 by completing an application form prescribed by the
2 Secretary.

3 (2) The application form shall contain—

4 (A) the vessel's name, previous names (if
5 known), official numbers, and port of record;

6 (B) the vessel's previous flags (if any);

7 (C) the vessel's International Radio Call
8 Sign (if any);

9 (D) the names and addresses of the ves-
10 sel's owners and operators;

11 (E) where and when the vessel was built;

12 (F) the type of vessel;

13 (G) the vessel's length; and

14 (H) any other information the Secretary
15 requires for the purposes of implementing the
16 Agreement.

17 (d) CONDITIONS.—The Secretary shall establish such
18 conditions and restrictions on each license issued under
19 this section as are necessary and appropriate to carry out
20 the obligations of the United States under the Agreement,
21 including but not limited to the following:

22 (1) The vessel shall be marked in accordance
23 with the FAO Standard Specifications for the Mark-
24 ing and Identification of Fishing Vessels, or with
25 regulations issued under section 305 of the Magnu-

1 son Fishery Conservation and Management Act (16
2 U.S.C. 1855); and

3 (2) The license holder shall report such infor-
4 mation as the Secretary by regulation requires, in-
5 cluding area of fishing operations and catch statis-
6 tics. The Secretary shall promulgate regulations con-
7 cerning conditions under which information submit-
8 ted under this paragraph may be released.

9 (e) FEES.—

10 (1) The Secretary shall by regulation establish
11 the level of fees to be charged for licenses issued
12 under this section. The amount of any fee charged
13 for a license issued under this section shall not ex-
14 ceed the administrative costs incurred in issuing
15 such licenses. The licensing fee may be in addition
16 to any fee required under any regional licensing re-
17 gime applicable to high seas fishing vessels.

18 (2) The fees authorized by paragraph (1) shall
19 be collected and credited to the Operations, Re-
20 search and Facilities account of the National Oce-
21 anic and Atmospheric Administration. Fees collected
22 under this subsection shall be available for the nec-
23 essary expenses of the National Oceanic and Atmos-
24 pheric Administration in implementing this Act, and
25 shall remain available until expended.

1 (f) DURATION.—A license issued under this section
2 is valid for 5 years. A license issued under this section
3 is void in the event the vessel is no longer eligible for
4 United States documentation, such documentation is re-
5 voked or denied, or the vessel is deleted from such docu-
6 mentation.

7 **SEC. 105. RESPONSIBILITIES OF THE SECRETARY.**

8 (a) RECORD.—The Secretary shall maintain an auto-
9 mated file or record of high seas fishing vessels issued li-
10 censes under section 104, including all information sub-
11 mitted under section 104(c)(2).

12 (b) INFORMATION TO FAO.—The Secretary, in co-
13 operation with the Secretary of State and the Secretary
14 of the department in which the Coast Guard is operating,
15 shall—

16 (1) make available to FAO information con-
17 tained in the record maintained under subsection

18 (a);

19 (2) promptly notify FAO of changes in such in-
20 formation;

21 (3) promptly notify FAO of additions to or de-
22 letions from the record, and the reason for any dele-
23 tion;

24 (4) convey to FAO information relating to any
25 license granted under section 104(b)(3), including

1 the vessel's identity, owner or operator, and factors
2 relevant to the Secretary's determination to issue
3 the license;

4 (5) report promptly to FAO all relevant infor-
5 mation regarding any activities of high seas fishing
6 vessels that undermine the effectiveness of inter-
7 national conservation and management measures, in-
8 cluding the identity of the vessels and any sanctions
9 imposed; and

10 (6) provide the FAO a summary of evidence re-
11 garding any activities of foreign vessels that under-
12 mine the effectiveness of international conservation
13 and management measures.

14 (c) INFORMATION TO FLAG NATIONS.—If the Sec-
15 retary, in cooperation with the Secretary of State and the
16 Secretary of the department in which the Coast Guard is
17 operating, has reasonable grounds to believe that a foreign
18 vessel has engaged in activities undermining the effective-
19 ness of international conservation and management meas-
20 ures, the Secretary shall—

21 (1) provide to the flag nation information, in-
22 cluding appropriate evidentiary material, relating to
23 those activities; and

24 (2) when such foreign vessel is voluntarily in a
25 United States port, promptly notify the flag nation

1 and, if requested by the flag nation, make arrange-
2 ments to undertake such lawful investigatory meas-
3 ures as may be considered necessary to establish
4 whether the vessel has been used contrary to the
5 provisions of the Agreement.

6 (d) REGULATIONS.—The Secretary, after consulta-
7 tion with the Secretary of State and the Secretary of the
8 department in which the Coast Guard is operating, may
9 promulgate such regulations, in accordance with section
10 553 of title 5, United States Code, as may be necessary
11 to carry out the purposes of the Agreement and this title.
12 The Secretary shall coordinate such regulations with any
13 other entities regulating high seas fishing vessels, in order
14 to minimize duplication of license application and report-
15 ing requirements. To the extent practicable, such regula-
16 tions shall also be consistent with regulations implement-
17 ing fishery management plans under the Magnuson Fish-
18 ery Conservation and Management Act (16 U.S.C. 1801
19 et seq.).

20 (e) NOTICE OF INTERNATIONAL CONSERVATION AND
21 MANAGEMENT MEASURES.—The Secretary, in consulta-
22 tion with the Secretary of State, shall publish in the Fed-
23 eral Register, from time to time, a notice listing inter-
24 national conservation and management measures recog-
25 nized by the United States.

1 **SEC. 106. UNLAWFUL ACTIVITIES.**

2 It is unlawful for any person subject to the jurisdic-
3 tion of the United States—

4 (1) to use a high seas fishing vessel on the high
5 seas in contravention of international conservation
6 and management measures described in section
7 105(e);

8 (2) to use a high seas fishing vessel on the high
9 seas, unless the vessel has on board a valid license
10 issued under section 104;

11 (3) to use a high seas fishing vessel in violation
12 of the conditions or restrictions of a license issued
13 under section 104;

14 (4) to falsify any information required to be re-
15 ported, communicated, or recorded pursuant to this
16 title or any regulation issued under this title, or to
17 fail to submit in a timely fashion any required infor-
18 mation, or to fail to report to the Secretary imme-
19 diately any change in circumstances that has the ef-
20 fect of rendering any such information false, incom-
21 plete, or misleading;

22 (5) to refuse to permit an authorized officer to
23 board a high seas fishing vessel subject to such per-
24 son's control for purposes of conducting any search
25 or inspection in connection with the enforcement of
26 this title or any regulation issued under this title;

1 (6) to forcibly assault, resist, oppose, impede,
2 intimidate, or interfere with an authorized officer in
3 the conduct of any search or inspection described in
4 paragraph (5);

5 (7) to resist a lawful arrest or detention for any
6 act prohibited by this section;

7 (8) to interfere with, delay, or prevent, by any
8 means, the apprehension, arrest, or detection of an-
9 other person, knowing that such person has commit-
10 ted any act prohibited by this section;

11 (9) to ship, transport, offer for sale, sell, pur-
12 chase, import, export, or have custody, control, or
13 possession of, any living marine resource taken or
14 retained in violation of this title or any regulation or
15 license issued under this title; or

16 (10) to violate any provision of this title or any
17 regulation or license issued under this title.

18 **SEC. 107. ENFORCEMENT PROVISIONS.**

19 (a) DUTIES OF SECRETARIES.—This title shall be en-
20 forced by the Secretary of Commerce and the Secretary
21 of the department in which the Coast Guard is operating.
22 Such Secretaries may by agreement utilize, on a reimburs-
23 able basis or otherwise, the personnel, services, equipment
24 (including aircraft and vessels), and facilities of any other
25 Federal agency, or of any State agency, in the perform-

1 ance of such duties. Such Secretaries shall, and the head
 2 of any Federal or State agency that has entered into an
 3 agreement with either such Secretary under this section
 4 may (if the agreement so provides), authorize officers to
 5 enforce the provisions of this title or any regulation or li-
 6 cense issued under this title.

7 (b) DISTRICT COURT JURISDICTION.—The district
 8 courts of the United States shall have exclusive jurisdic-
 9 tion over any case or controversy arising under the provi-
 10 sions of this title. In the case of Guam, and any Common-
 11 wealth, territory, or possession of the United States in the
 12 Pacific Ocean, the appropriate court is the United States
 13 District Court for the District of Guam, except that in
 14 the case of American Samoa, the appropriate court is the
 15 United States District Court for the District of Hawaii.

16 (c) POWERS OF ENFORCEMENT OFFICERS.—

17 (1) Any officer who is authorized under sub-
 18 section (a) to enforce the provisions of this title
 19 may—

20 (A) with or without a warrant or other
 21 process—

22 (i) arrest any person, if the officer has
 23 reasonable cause to believe that such per-
 24 son has committed an act prohibited by

1 paragraph (6), (7), (8), or (9) of section
2 106;

3 (ii) board, and search or inspect, any
4 high seas fishing vessel;

5 (iii) seize any high seas fishing vessel
6 (together with its fishing gear, furniture,
7 appurtenances, stores, and cargo) used or
8 employed in, or with respect to which it
9 reasonably appears that such vessel was
10 used or employed in, the violation of any
11 provision of this title or any regulation or
12 license issued under this title;

13 (iv) seize any living marine resource
14 (wherever found) taken or retained, in any
15 manner, in connection with or as a result
16 of the commission of any act prohibited by
17 section 106;

18 (v) seize any other evidence related to
19 any violation of any provision of this title
20 or any regulation or license issued under
21 this title;

22 (B) execute any warrant or other process
23 issued by any court of competent jurisdiction;
24 and

25 (C) exercise any other lawful authority.

1 (2) Subject to the direction of the Secretary, a
2 person charged with law enforcement responsibilities
3 by the Secretary who is performing a duty related
4 to enforcement of a law regarding fisheries or other
5 marine resources may make an arrest without a war-
6 rant for an offense against the United States com-
7 mitted in his presence, or for a felony cognizable
8 under the laws of the United States, if he has rea-
9 sonable grounds to believe that the person to be ar-
10 rested has committed or is committing a felony.

11 (d) ISSUANCE OF CITATIONS.—If any authorized offi-
12 cer finds that a high seas fishing vessel is operating or
13 has been operated in violation of any provision of this title,
14 such officer may issue a citation to the owner or operator
15 of such vessel in lieu of proceeding under subsection (c).
16 If a permit has been issued pursuant to this title for such
17 vessel, such officer shall note the issuance of any citation
18 under this subsection, including the date thereof and the
19 reason therefor, on the permit. The Secretary shall main-
20 tain a record of all citations issued pursuant to this sub-
21 section.

22 (e) LIABILITY FOR COSTS.—Any person assessed a
23 civil penalty for, or convicted of, any violation of this Act
24 shall be liable for the cost incurred in storage, care, and

1 maintenance of any living marine resource or other prop-
2 erty seized in connection with the violation.

3 **SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.**

4 (a) CIVIL PENALTIES.—

5 (1) Any person who is found by the Secretary,
6 after notice and opportunity for a hearing in accord-
7 ance with section 554 of title 5, United States Code,
8 to have committed an act prohibited by section 106
9 shall be liable to the United States for a civil pen-
10 alty. The amount of the civil penalty shall not exceed
11 \$100,000 for each violation. Each day of a continu-
12 ing violation shall constitute a separate offense. The
13 amount of such civil penalty shall be assessed by the
14 Secretary by written notice. In determining the
15 amount of such penalty, the Secretary shall take
16 into account the nature, circumstances, extent, and
17 gravity of the prohibited acts committed and, with
18 respect to the violation, the degree of culpability,
19 any history of prior offenses, and such other matters
20 as justice may require.

21 (2) The Secretary may compromise, modify, or
22 remit, with or without conditions, any civil penalty
23 that is subject to imposition or that has been im-
24 posed under this section.

25 (b) LICENSE SANCTIONS.—

1 (1) In any case in which—

2 (A) a vessel of the United States has been
3 used in the commission of an act prohibited
4 under section 106;

5 (B) the owner or operator of a vessel or
6 any other person who has been issued or has
7 applied for a license under section 104 has
8 acted in violation of section 106; or

9 (C) any amount in settlement of a civil for-
10 feiture imposed on a high seas fishing vessel or
11 other property, or any civil penalty or criminal
12 fine imposed on a high seas fishing vessel or on
13 an owner or operator of such a vessel or on any
14 other person who has been issued or has ap-
15 plied for a license under any fishery resource
16 statute enforced by the Secretary, has not been
17 paid and is overdue, the Secretary may—

18 (i) revoke any license issued to or ap-
19 plied for by such vessel or person under
20 this title, with or without prejudice to the
21 issuance of subsequent licenses;

22 (ii) suspend such license for a period
23 of time considered by the Secretary to be
24 appropriate;

25 (iii) deny such license; or

1 (iv) impose additional conditions and
2 restrictions on such license.

3 (2) In imposing a sanction under this sub-
4 section, the Secretary shall take into account—

5 (A) the nature, circumstances, extent, and
6 gravity of the prohibited acts for which the
7 sanction is imposed; and

8 (B) with respect to the violator, the degree
9 of culpability, any history of prior offenses, and
10 such other matters as justice may require.

11 (3) Transfer of ownership of a high seas fishing
12 vessel, by sale or otherwise, shall not extinguish any
13 license sanction that is in effect or is pending at the
14 time of transfer of ownership. Before executing the
15 transfer of ownership of a vessel, by sale or other-
16 wise, the owner shall disclose in writing to the pro-
17 spective transferee the existence of any license sanc-
18 tion that will be in effect or pending with respect to
19 the vessel at the time of the transfer. The Secretary
20 may waive or compromise a sanction in the case of
21 a transfer pursuant to court order.

22 (4) In the case of any license that is suspended
23 under this subsection for nonpayment of a civil pen-
24 alty or criminal fine, the Secretary shall reinstate

1 the license upon payment of the penalty or fine and
2 interest thereon at the prevailing rate.

3 (5) No sanctions shall be imposed under this
4 subsection unless there has been prior opportunity
5 for a hearing on the facts underlying the violation
6 for which the sanction is imposed, either in conjunc-
7 tion with a civil penalty proceeding under this sec-
8 tion or otherwise.

9 (c) HEARING.—For the purposes of conducting any
10 hearing under this section, the Secretary may issue sub-
11 poenas for the attendance and testimony of witnesses and
12 the production of relevant papers, books, and documents,
13 and may administer oaths. Witnesses summoned shall be
14 paid the same fees and mileage that are paid to witnesses
15 in the courts of the United States. In case of contempt
16 or refusal to obey a subpoena served upon any person pur-
17 suant to this subsection, the district court of the United
18 States for any district in which such person is found, re-
19 sides, or transacts business, upon application by the
20 United States and after notice to such person, shall have
21 jurisdiction to issue an order requiring such person to ap-
22 pear and give testimony before the Secretary or to appear
23 and produce documents before the Secretary, or both, and
24 any failure to obey such order of the court may be pun-
25 ished by such court as a contempt thereof.

1 (d) JUDICIAL REVIEW.—Any person against whom a
2 civil penalty is assessed under subsection (a) or against
3 whose vessel a license sanction is imposed under sub-
4 section (b) (other than a license suspension for
5 nonpayment of penalty or fine) may obtain review thereof
6 in the United States district court for the appropriate dis-
7 trict by filing a complaint against the Secretary in such
8 court within 30 days from the date of such penalty or
9 sanction. The Secretary shall promptly file in such court
10 a certified copy of the record upon which such penalty or
11 sanction was imposed, as provided in section 2112 of title
12 28, United States Code. The findings and order of the
13 Secretary shall be set aside by such court if they are not
14 found to be supported by substantial evidence, as provided
15 in section 706(2) of title 5, United States Code.

16 (e) COLLECTION.—

17 (1) If any person fails to pay an assessment of
18 a civil penalty after it has become a final and
19 unappealable order, or after the appropriate court
20 has entered final judgment in favor of the Secretary,
21 the matter shall be referred to the Attorney General,
22 who shall recover the amount assessed in any appro-
23 priate district court of the United States. In such
24 action the validity and appropriateness of the final

1 order imposing the civil penalty shall not be subject
2 to review.

3 (2) A high seas fishing vessel (including its
4 fishing gear, furniture, appurtenances, stores, and
5 cargo) used in the commission of an act prohibited
6 by section 106 shall be liable in rem for any civil
7 penalty assessed for such violation under subsection
8 (a) and may be proceeded against in any district
9 court of the United States having jurisdiction there-
10 of. Such penalty shall constitute a maritime lien on
11 such vessel that may be recovered in an action in
12 rem in the district court of the United States having
13 jurisdiction over the vessel.

14 **SEC. 109. CRIMINAL OFFENSES.**

15 (a) OFFENSES.—A person is guilty of an offense if
16 the person commits any act prohibited by paragraph (6),
17 (7), (8), or (9) of section 106.

18 (b) PUNISHMENT.—Any offense described in sub-
19 section (a) is a class A misdemeanor punishable by a fine
20 under title 18, United States Code, or imprisonment for
21 not more than one year, or both; except that if in the com-
22 mission of any offense the person uses a dangerous weap-
23 on, engages in conduct that causes bodily injury to any
24 authorized officer, or places any such officer in fear of
25 imminent bodily injury, the offense is a felony punishable

1 by a fine under title 18, United States Code, or imprison-
2 ment for not more than 10 years, or both.

3 **SEC. 110. FORFEITURES.**

4 (a) IN GENERAL.—Any high seas fishing vessel (in-
5 cluding its fishing gear, furniture, appurtenances, stores,
6 and cargo) used, and any living marine resources (or the
7 fair market value thereof) taken or retained, in any man-
8 ner, in connection with or as a result of the commission
9 of any act prohibited by section 106 (other than an act
10 for which the issuance of a citation under section 107 is
11 a sufficient sanction) shall be subject to forfeiture to the
12 United States. All or part of such vessel may, and all such
13 living marine resources (or the fair market value thereof)
14 shall, be forfeited to the United States pursuant to a civil
15 proceeding under this section.

16 (b) JURISDICTION OF DISTRICT COURTS.—Any dis-
17 trict court of the United States shall have jurisdiction,
18 upon application of the Attorney General on behalf of the
19 United States, to order any forfeiture authorized under
20 subsection (a) and any action provided for under sub-
21 section (d).

22 (c) JUDGMENT.—If a judgment is entered for the
23 United States in a civil forfeiture proceeding under this
24 section, the Attorney General may seize any property or
25 other interest declared forfeited to the United States,

1 which has not previously been seized pursuant to this title
2 or for which security has not previously been obtained.

3 The provisions of the customs laws relating to—

4 (1) the seizure, forfeiture, and condemnation of
5 property for violation of the customs law;

6 (2) the disposition of such property or the pro-
7 ceeds from the sale thereof; and

8 (3) the remission or mitigation of any such for-
9 feiture;

10 shall apply to seizures and forfeitures incurred, or alleged
11 to have been incurred, under the provisions of this title,
12 unless such provisions are inconsistent with the purposes,
13 policy, and provisions of this title.

14 (d) PROCEDURE.—

15 (1) Any officer authorized to serve any process
16 in rem that is issued by a court under section
17 107(b) shall—

18 (A) stay the execution of such process; or

19 (B) discharge any living marine resources
20 seized pursuant to such process;

21 upon receipt of a satisfactory bond or other security
22 from any person claiming such property. Such bond
23 or other security shall be conditioned upon such per-
24 son delivering such property to the appropriate court
25 upon order thereof, without any impairment of its

1 value, or paying the monetary value of such property
2 pursuant to an order of such court. Judgment shall
3 be recoverable on such bond or other security
4 against both the principal and any sureties in the
5 event that any condition thereof is breached, as de-
6 termined by such court.

7 (2) Any living marine resources seized pursuant
8 to this title may be sold, subject to the approval of
9 the appropriate court, for not less than the fair mar-
10 ket value thereof. The proceeds of any such sale
11 shall be deposited with such court pending the dis-
12 position of the matter involved.

13 (e) REBUTTABLE PRESUMPTION.—For purposes of
14 this section, all living marine resources found on board
15 a high seas fishing vessel and which are seized in connec-
16 tion with an act prohibited by section 106 are presumed
17 to have been taken or retained in violation of this title,
18 but the presumption can be rebutted by an appropriate
19 showing of evidence to the contrary.

20 **SEC. 111. EFFECTIVE DATE.**

21 This title shall take effect 120 days after the date
22 of enactment of this Act.

1 **TITLE II—IMPLEMENTATION OF CONVEN-**
2 **TION ON FUTURE MULTILATERAL CO-**
3 **OPERATION IN THE NORTHWEST AT-**
4 **LANTIC FISHERIES**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Northwest Atlantic
7 Fisheries Convention Act of 1995”.

8 **SEC. 202. REPRESENTATION OF UNITED STATES UNDER**
9 **CONVENTION.**

10 (a) COMMISSIONERS.—

11 (1) APPOINTMENTS, GENERALLY.—The Sec-
12 retary shall appoint not more than 3 individuals to
13 serve as the representatives of the United States on
14 the General Council and the Fisheries Commission,
15 who shall each—

16 (A) be known as a “United States Com-
17 missioner to the Northwest Atlantic Fisheries
18 Organization”; and

19 (B) serve at the pleasure of the Secretary.

20 (2) REQUIREMENTS FOR APPOINTMENTS.—

21 (A) The Secretary shall ensure that of the
22 individuals serving as Commissioners—

23 (i) at least 1 is appointed from among
24 representatives of the commercial fishing
25 industry;

1 (ii) 1 (but no more than 1) is an offi-
2 cial of the Government; and

3 (iii) 1, other than the individual ap-
4 pointed under clause (ii), is a voting mem-
5 ber of the New England Fishery Manage-
6 ment Council.

7 (B) The Secretary may not appoint as a
8 Commissioner an individual unless the individ-
9 ual is knowledgeable and experienced concern-
10 ing the fishery resources to which the Conven-
11 tion applies.

12 (3) TERMS.—

13 (A) The term of an individual appointed as
14 a Commissioner—

15 (i) shall be specified by the Secretary
16 at the time of appointment; and

17 (ii) may not exceed 4 years.

18 (B) An individual who is not a Government
19 official may not serve more than 2 consecutive
20 terms as a Commissioner.

21 (b) ALTERNATE COMMISSIONERS.—

22 (1) APPOINTMENT.—The Secretary may, for
23 any anticipated absence of a duly appointed Com-
24 missioner at a meeting of the General Council or the

1 Fisheries Commission, designate an individual to
2 serve as an Alternate Commissioner.

3 (2) FUNCTIONS.—An Alternate Commissioner
4 may exercise all powers and perform all duties of the
5 Commissioner for whom the Alternate Commissioner
6 is designated, at any meeting of the General Council
7 or the Fisheries Commission for which the Alternate
8 Commissioner is designated.

9 (c) REPRESENTATIVES.—

10 (1) APPOINTMENT.—The Secretary shall ap-
11 point not more than 3 individuals to serve as the
12 representatives of the United States on the Scientific
13 Council, who shall each be known as a “United
14 States Representative to the Northwest Atlantic
15 Fisheries Organization Scientific Council”.

16 (2) ELIGIBILITY FOR APPOINTMENT.—

17 (A) The Secretary may not appoint an in-
18 dividual as a Representative unless the individ-
19 ual is knowledgeable and experienced concern-
20 ing the scientific issues dealt with by the Sci-
21 entific Council.

22 (B) The Secretary shall appoint as a Rep-
23 resentative at least 1 individual who is an offi-
24 cial of the Government.

1 (3) TERM.—An individual appointed as a Rep-
2 representative—

3 (A) shall serve for a term of not to exceed
4 4 years, as specified by the Secretary at the
5 time of appointment;

6 (B) may be reappointed; and

7 (C) shall serve at the pleasure of the Sec-
8 retary.

9 (d) ALTERNATE REPRESENTATIVES.—

10 (1) APPOINTMENT.—The Secretary may, for
11 any anticipated absence of a duly appointed Rep-
12 resentative at a meeting of the Scientific Council,
13 designate an individual to serve as an Alternate Rep-
14 resentative.

15 (2) FUNCTIONS.—An Alternate Representative
16 may exercise all powers and perform all duties of the
17 Representative for whom the Alternate Representa-
18 tive is designated, at any meeting of the Scientific
19 Council for which the Alternate Representative is
20 designated.

21 (e) EXPERTS AND ADVISERS.—The Commissioners,
22 Alternate Commissioners, Representatives, and Alternate
23 Representatives may be accompanied at meetings of the
24 Organization by experts and advisers.

25 (f) COORDINATION AND CONSULTATION.—

1 (1) IN GENERAL.—In carrying out their func-
 2 tions under the Convention, Commissioners, Alter-
 3 nate Commissioners, Representatives, and Alternate
 4 Representatives shall—

5 (A) coordinate with the appropriate Re-
 6 gional Fishery Management Councils estab-
 7 lished by section 302 of the Magnuson Act (16
 8 U.S.C. 1852); and

9 (B) consult with the committee established
 10 under section 208.

11 (2) RELATIONSHIP TO OTHER LAW.—The Fed-
 12 eral Advisory Committee Act (5 U.S.C. ~~App. § 1 et~~
 13 ~~seq.~~ *App.*) shall not apply to coordination and con-
 14 sultations under this subsection.

15 **SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.**

16 (a) RESTRICTION.—The Representatives may not
 17 make a request or specification described in subsection
 18 (b)(1) or (2), respectively, unless the Representatives have
 19 first—

20 (1) consulted with the appropriate Regional
 21 Fishery Management Councils; and

22 (2) received the consent of the Commissioners
 23 for that action.

1 (b) REQUESTS AND TERMS OF REFERENCE DE-
 2 SCRIBED.—The requests and specifications referred to in
 3 subsection (a) are, respectively—

4 (1) any request, under Article VII(1) of the
 5 Convention, that the Scientific Council consider and
 6 report on a question pertaining to the scientific basis
 7 for the management and conservation of fishery re-
 8 sources in waters under the jurisdiction of the
 9 United States within the Convention Area; and

10 (2) any specification, under Article VIII(2) of
 11 the Convention, of the terms of reference for the
 12 consideration of a question referred to the Scientific
 13 Council pursuant to Article VII(1) of the Conven-
 14 tion.

15 **SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RE-**
 16 **SPECT TO CONVENTION.**

17 The Secretary of State may, on behalf of the Govern-
 18 ment of the United States—

19 (1) receive and transmit reports, requests, rec-
 20 ommendations, proposals, and other communications
 21 of and to the Organization and its subsidiary or-
 22 gans;

23 (2) object, or withdraw an objection, to the pro-
 24 posal of the Fisheries Commission;

1 (3) give or withdraw notice of intent not to be
2 bound by a measure of the Fisheries Commission;

3 (4) object or withdraw an objection to an
4 amendment to the Convention; and

5 (5) act upon, or refer to any other appropriate
6 authority, any other communication referred to in
7 paragraph (1).

8 **SEC. 205. INTERAGENCY COOPERATION.**

9 (a) **AUTHORITIES OF SECRETARY.**—In carrying out
10 the provisions of the Convention and this title, the Sec-
11 retary may arrange for cooperation with other agencies of
12 the United States, the States, the New England and the
13 Mid-Atlantic Fishery Management Councils, and private
14 institutions and organizations.

15 (b) **OTHER AGENCIES.**—The head of any Federal
16 agency may—

17 (1) cooperate in the conduct of scientific and
18 other programs, and furnish facilities and personnel,
19 for the purposes of assisting the Organization in
20 carrying out its duties under the Convention; and

21 (2) accept reimbursement from the Organiza-
22 tion for providing such services, facilities, and per-
23 sonnel.

1 **SEC. 206. RULEMAKING.**

2 The Secretary shall promulgate regulations as may
3 be necessary to carry out the purposes and objectives of
4 the Convention and this title. Any such regulation may
5 be made applicable, as necessary, to all persons and all
6 vessels subject to the jurisdiction of the United States,
7 wherever located.

8 **SEC. 207. PROHIBITED ACTS AND PENALTIES.**

9 (a) PROHIBITION.—It is unlawful for any person or
10 vessel that is subject to the jurisdiction of the United
11 States—

12 (1) to violate any regulation issued under this
13 title or any measure that is legally binding on the
14 United States under the Convention;

15 (2) to refuse to permit any authorized enforce-
16 ment officer to board a fishing vessel that is subject
17 to the person's control for purposes of conducting
18 any search or inspection in connection with the en-
19 forcement of this title, any regulation issued under
20 this title, or any measure that is legally binding on
21 the United States under the Convention;

22 (3) forcibly to assault, resist, oppose, impede,
23 intimidate, or interfere with any authorized enforce-
24 ment officer in the conduct of any search or inspec-
25 tion described in paragraph (2);

1 (4) to resist a lawful arrest for any act prohib-
2 ited by this section;

3 (5) to ship, transport, offer for sale, sell, pur-
4 chase, import, export, or have custody, control, or
5 possession of, any fish taken or retained in violation
6 of this section; or

7 (6) to interfere with, delay, or prevent, by any
8 means, the apprehension or arrest of another person,
9 knowing that the other person has committed an act
10 prohibited by this section.

11 (b) CIVIL PENALTY.—Any person who commits any
12 act that is unlawful under subsection (a) shall be liable
13 to the United States for a civil penalty, or may be subject
14 to a permit sanction, under section 308 of the Magnuson
15 Act (16 U.S.C. 1858).

16 (c) CRIMINAL PENALTY.—Any person who commits
17 an act that is unlawful under paragraph (2), (3), (4), or
18 (6) of subsection (a) shall be guilty of an offense punish-
19 able under section 309(b) of the Magnuson Act (16 U.S.C.
20 1859(b)).

21 (d) CIVIL FORFEITURE.—

22 (1) IN GENERAL.—Any vessel (including its
23 gear, furniture, appurtenances, stores, and cargo)
24 used in the commission of an act that is unlawful
25 under subsection (a), and any fish (or the fair mar-

1 ket value thereof) taken or retained, in any manner,
2 in connection with or as a result of the commission
3 of any act that is unlawful under subsection (a),
4 shall be subject to seizure and forfeiture as provided
5 in section 310 of the Magnuson Act (16 U.S.C.
6 1860).

7 (2) DISPOSAL OF FISH.—Any fish seized pursu-
8 ant to this title may be disposed of pursuant to the
9 order of a court of competent jurisdiction or, if per-
10 ishable, in a manner prescribed by regulations issued
11 by the Secretary.

12 (e) ENFORCEMENT.—The Secretary and the Sec-
13 retary of the department in which the Coast Guard is op-
14 erating shall enforce the provisions of this title and shall
15 have the authority specified in sections 311(a), (b)(1), and
16 (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and
17 (c)) for that purpose.

18 (f) JURISDICTION OF COURTS.—The district courts
19 of the United States shall have exclusive jurisdiction over
20 any case or controversy arising under this section and
21 may, at any time—

22 (1) enter restraining orders or prohibitions;

23 (2) issue warrants, process in rem, or other
24 process;

1 (3) prescribe and accept satisfactory bonds or
2 other security; and

3 (4) take such other actions as are in the inter-
4 ests of justice.

5 **SEC. 208. CONSULTATIVE COMMITTEE.**

6 (a) ESTABLISHMENT.—The Secretary of State and
7 the Secretary, shall jointly establish a consultative com-
8 mittee to advise the Secretaries on issues related to the
9 Convention.

10 (b) MEMBERSHIP.—

11 (1) The membership of the Committee shall in-
12 clude representatives from the New England and
13 Mid-Atlantic Fishery Management Councils, the
14 States represented on those Councils, the Atlantic
15 States Marine Fisheries Commission, the fishing in-
16 dustry, the seafood processing industry, and others
17 knowledgeable and experienced in the conservation
18 and management of fisheries in the Northwest At-
19 lantic Ocean.

20 (2) TERMS AND REAPPOINTMENT.—Each mem-
21 ber of the consultative committee shall serve for a
22 term of two years and shall be eligible for reappoint-
23 ment.

24 (c) DUTIES OF THE COMMITTEE.—Members of the
25 consultative committee may attend—

1 (1) all public meetings of the General Council
2 or the Fisheries Commission;

3 (2) any other meetings to which they are in-
4 vited by the General Council or the Fisheries Com-
5 mission; and

6 (3) all nonexecutive meetings of the United
7 States Commissioners.

8 (d) RELATIONSHIP TO OTHER LAW.—The Federal
9 Advisory Committee Act (5 U.S.C. ~~App. § 1 et seq.~~ *App.*)
10 shall not apply to the consultative committee established
11 under this section.

12 **SEC. 209. ADMINISTRATIVE MATTERS.**

13 (a) PROHIBITION ON COMPENSATION.—A person
14 shall not receive any compensation from the Government
15 by reason of any service of the person as—

16 (1) a Commissioner, Alternate Commissioner,
17 Representative, or Alternate Representative;

18 (2) an expert or adviser authorized under sec-
19 tion 202(e); or

20 (3) a member of the consultative committee es-
21 tablished by section 208.

22 (b) TRAVEL AND EXPENSES.—The Secretary of
23 State shall, subject to the availability of appropriations,
24 pay all necessary travel and other expenses of persons de-
25 scribed in subsection (a)(1) and of not more than six ex-

1 perts and advisers authorized under section 202(e) with
 2 respect to their actual performance of their official duties
 3 pursuant to this title, in accordance with the Federal
 4 Travel Regulations and sections 5701, 5702, 5704
 5 through 5708, and 5731 of title 5, United States Code.

6 (c) STATUS AS FEDERAL EMPLOYEES.—A person
 7 shall not be considered to be a Federal employee by reason
 8 of any service of the person in a capacity described in sub-
 9 section (a), except for purposes of injury compensation
 10 and tort claims liability under chapter 81 of title 5, United
 11 States Code, and chapter 17 of title 28, United States
 12 Code, respectively.

13 **SEC. 210. DEFINITIONS.**

14 In this title the following definitions apply:

15 (1) AUTHORIZED ENFORCEMENT OFFICER.—
 16 The term “authorized enforcement officer” means a
 17 person authorized to enforce this title, any regula-
 18 tion issued under this title, or any measure that is
 19 legally binding on the United States under the Con-
 20 vention.

21 (2) COMMISSIONER.—The term “Commis-
 22 sioner” means a United States Commissioner to the
 23 Northwest Atlantic Fisheries Organization appointed
 24 under section 202(a).

1 (3) CONVENTION.—The term “Convention”
2 means the Convention on Future Multilateral Co-
3 operation in the Northwest Atlantic Fisheries, done
4 at Ottawa on October 24, 1978.

5 (4) FISHERIES COMMISSION.—The term “Fish-
6 eries Commission” means the Fisheries Commission
7 provided for by Articles II, XI, XII, XIII, and XIV
8 of the Convention.

9 (5) GENERAL COUNCIL.—The term “General
10 Council” means the General Council provided for by
11 Articles II, III, IV, and V of the Convention.

12 (6) MAGNUSON ACT.—The term “Magnuson
13 Act” means the Magnuson Fishery Conservation and
14 Management Act (16 U.S.C. 1801 et seq.).

15 (7) ORGANIZATION.—The term “Organization”
16 means the Northwest Atlantic Fisheries Organiza-
17 tion provided for by Article II of the Convention.

18 (8) PERSON.—The term “person” means any
19 individual (whether or not a citizen or national of
20 the United States), and any corporation, partner-
21 ship, association, or other entity (whether or not or-
22 ganized or existing under the laws of any State).

23 (9) REPRESENTATIVE.—The term “Representa-
24 tive” means a United States Representative to the

1 Northwest Atlantic Fisheries Scientific Council ap-
2 pointed under section 202(c).

3 (10) SCIENTIFIC COUNCIL.—The term “Sci-
4 entific Council” means the Scientific Council pro-
5 vided for by Articles II, VI, VII, VIII, IX, and X of
6 the Convention.

7 (11) SECRETARY.—The term “Secretary”
8 means the Secretary of Commerce.

9 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to carry out
11 this title, including use for payment as the United States
12 contribution to the Organization as provided in Article
13 XVI of the Convention, \$500,000 for each of the fiscal
14 years 1995, 1996, ~~1997~~ 1997, and 1998.

15 **TITLE III—ATLANTIC TUNAS CONVENTION**
16 **ACT**

17 **SEC. 301. SHORT TITLE.**

18 This title may be cited as the “Atlantic Tunas Con-
19 vention Authorization Act of 1995”.

20 **SEC. 302. RESEARCH AND MONITORING ACTIVITIES.**

21 (a) REPORT TO CONGRESS.—The Secretary of Com-
22 merce shall, within 90 days after the date of enactment
23 of this Act, submit a report to the Committee on Com-
24 merce, Science, and Transportation of the Senate and the

1 Committee on Resources of the House of Representa-
2 tives—

3 (1) identifying current governmental and non-
4 governmental research and monitoring activities on
5 Atlantic bluefin tuna and other highly migratory
6 species;

7 (2) describing the personnel and budgetary re-
8 sources allocated to such activities; and

9 (3) explaining how each activity contributes to
10 the conservation and management of Atlantic bluefin
11 tuna and other highly migratory species.

12 (b) RESEARCH AND MONITORING PROGRAM.—Sec-
13 tion 3 of the Act of September 4, 1980 (16 U.S.C. 971i)
14 is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY**
18 **SPECIES.”;**

19 (2) by striking the last sentence;

20 (3) by inserting “(a) BIENNIAL REPORT ON
21 BLUEFIN TUNA.—” before “The Secretary of Com-
22 merce shall”; and

23 (4) by adding at the end the following:

24 “(b) HIGHLY MIGRATORY SPECIES RESEARCH AND
25 MONITORING.—

1 “(1) Within 6 months after the date of enact-
2 ment of the Atlantic Tunas Convention Authoriza-
3 tion Act of 1995, the Secretary of Commerce, in co-
4 operation with the advisory committee established
5 under section 4 of the Atlantic Tunas Convention
6 Act of 1975 (16 U.S.C. 971b) and in consultation
7 with the United States Commissioners on the Inter-
8 national Commission for the Conservation of Atlan-
9 tic Tunas (referred to elsewhere in this section as
10 the ‘Commission’) and the Secretary of State, shall
11 develop and implement a comprehensive research
12 and monitoring program to support the conservation
13 and management of Atlantic bluefin tuna and other
14 highly migratory species that shall—

15 “(A) identify and define the range of
16 stocks of highly migratory species in the Atlan-
17 tic Ocean, including Atlantic bluefin tuna; and

18 “(B) provide for appropriate participation
19 by nations which are members of the Commis-
20 sion.

21 “(2) The program shall provide for, but not be
22 limited to—

23 “(A) statistically designed cooperative tag-
24 ging studies;

1 “(B) genetic and biochemical stock analy-
2 ses;

3 “(C) population censuses carried out
4 through aerial surveys of fishing grounds and
5 known migration areas;

6 “(D) adequate observer coverage and port
7 sampling of commercial and recreational fishing
8 activity;

9 “(E) collection of comparable real-time
10 data on commercial and recreational catches
11 and landings through the use of permits,
12 logbooks, landing reports for charter operations
13 and fishing tournaments, and programs to pro-
14 vide reliable reporting of the catch by private
15 anglers;

16 “(F) studies of the life history parameters
17 of Atlantic bluefin tuna and other highly migra-
18 tory species;

19 “(G) integration of data from all sources
20 and the preparation of data bases to support
21 management decisions; and

22 “(H) other research as necessary.

23 “(3) In developing a program under this sec-
24 tion, the Secretary shall provide for comparable
25 monitoring of all United States fishermen to which

1 the Atlantic Tunas Convention Act applies with re-
2 spect to effort and species composition of catch and
3 discards. The Secretary through the Secretary of
4 State shall encourage other member nations to adopt
5 a similar program.”.

6 **SEC. 303. ADVISORY COMMITTEE PROCEDURES.**

7 Section 4 of the Atlantic Tunas Convention Act of
8 1975 (16 U.S.C. 971b) is amended—

9 (1) by inserting “(a)” before “There”; and

10 (2) by adding at the end the following:

11 “(b)(1) A majority of the members of the advisory
12 committee shall constitute a quorum, but one or more such
13 members designated by the advisory committee may hold
14 meetings to provide for public participation and to discuss
15 measures relating to the United States implementation of
16 Commission recommendations.

17 “(2) The advisory committee shall elect a Chairman
18 for a 2-year term from among its members.

19 “(3) The advisory committee shall meet at appro-
20 priate times and places at least twice a year, at the call
21 of the Chairman or upon the request of the majority of
22 its voting members, the United States Commissioners, the
23 Secretary, or the Secretary of State. Meetings of the advi-
24 sory committee shall be open to the public, and prior no-
25 tice of meetings shall be made public in a timely fashion.

1 “(4)(A) The Secretary shall provide to the advisory
2 committee in a timely manner such administrative and
3 technical support services as are necessary for the effective
4 functioning of the committee.

5 “(B) The Secretary and the Secretary of State shall
6 furnish the advisory committee with relevant information
7 concerning fisheries and international fishery agreements.

8 “(5) The advisory committee shall determine its orga-
9 nization, and prescribe its practices and procedures for
10 carrying out its functions under this Act, the Magnuson
11 Fishery Conservation and Management Act (16 U.S.C.
12 1801 et seq.), and the Convention. The advisory commit-
13 tee shall publish and make available to the public a state-
14 ment of its organization, practices, and procedures.

15 “(6) The advisory committee shall, to the maximum
16 extent practicable, consist of an equitable balance among
17 the various groups concerned with the fisheries covered by
18 the Convention and shall not be subject to the Federal
19 Advisory Committee Act (5 U.S.C. ~~App. § 4 et seq.~~).”
20 *App.*).”.

21 **SEC. 304. REGULATIONS.**

22 Section 6(c)(3) of the Atlantic Tunas Convention Act
23 of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding “or
24 fishery mortality level” after “quota of fish” in the last
25 sentence.

1 **SEC. 305. FINES AND PERMIT SANCTIONS.**

2 Section 7(e) of the Atlantic Tunas Convention Act
3 of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

4 “(e) The civil penalty and permit sanctions of section
5 308 of the Magnuson Fishery Conservation and Manage-
6 ment Act (16 U.S.C. 1858) are hereby made applicable
7 to violations of this section as if they were violations of
8 section 307 of that Act.”.

9 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 10 of the Atlantic Tunas Convention Act of
11 1975 (16 U.S.C. 971h) is amended to read as follows:

12 **“§ 10. Authorization of appropriations**

13 “There are authorized to be appropriated to carry out
14 this Act, including use for payment of the United States
15 share of the joint expenses of the Commission as provided
16 in article X of the Convention, the following sums:

17 “(1) For fiscal year 1995, \$2,750,000, of which
18 \$50,000 are authorized in the aggregate for the ad-
19 visory committee established under section 4 and the
20 species working groups established under section 4A,
21 and \$1,500,000 are authorized for research activities
22 under this Act.

23 “(2) For fiscal year 1996, \$4,000,000, of which
24 \$62,000 are authorized in the aggregate for such
25 advisory committee and such working groups, and

1 \$2,500,000 are authorized for such research activi-
2 ties.

3 “(3) For fiscal year 1997, \$4,000,000 of which
4 \$75,000 are authorized in the aggregate for such
5 advisory committee and such working groups, and
6 \$2,500,000 are authorized for such research activi-
7 ties.”.

8 “(4) For fiscal year 1998, \$4,000,000 of which
9 \$75,000 are authorized in the aggregate for such
10 advisory committee and such working groups, and
11 \$2,500,000 are authorized for such research activi-
12 ties.”.

13 **SEC. 307. REPORT AND CERTIFICATION.**

14 The Atlantic Tunas Convention Act of 1975 (16
15 U.S.C. 971 et seq.) is amended by adding at the end there-
16 of the following:

17 **“§ 11. Annual report**

18 “Not later than April 1, 1996, and annually there-
19 after, the Secretary shall prepare and transmit to the
20 Committee on Resources of the House of Representatives
21 and the Committee on Commerce, Science, and Transpor-
22 tation of the Senate a report, that—

23 “(1) details for the previous 10-year period the
24 catches and exports to the United States of highly
25 migratory species (including tunas, swordfish, marlin

1 and sharks) from nations fishing on Atlantic stocks
2 of such species that are subject to management by
3 the Commission;

4 “(2) identifies those fishing nations whose har-
5 vests are inconsistent with conservation and manage-
6 ment recommendations of the Commission;

7 “(3) describes reporting requirements estab-
8 lished by the Secretary to ensure that imported fish
9 products are in compliance with all international
10 management measures, including minimum size re-
11 quirements, established by the Commission and
12 other international fishery organizations to which
13 the United States is a party; and

14 “(4) describes actions taken by the Secretary
15 under section 12.

16 **“§ 12. Certification**

17 “(a) If the Secretary determines that vessels of any
18 nation are harvesting fish which are subject to regulation
19 pursuant to a recommendation of the Commission and
20 which were taken from the convention area in a manner
21 or under circumstances which would tend to diminish the
22 effectiveness of the conservation recommendations of the
23 Commission, the Secretary shall certify such fact to the
24 President.

1 “(b) Such certification shall be deemed to be a certifi-
2 cation for the purposes of section 8 of the Fishermen’s
3 Protective Act (22 U.S.C. 1978).

4 “(c) Upon certification under subsection (a), the Sec-
5 retary shall promulgate regulations under section 6(c)(4)
6 with respect to a nation so certified.”.

7 **SEC. 308. MANAGEMENT OF YELLOWFIN TUNA.**

8 (a) Not later than 90 days after the date of the enact-
9 ment of this Act, the Secretary of Commerce in accord-
10 ance with this section shall publish a preliminary deter-
11 mination of the level of the United States recreational and
12 commercial catch of yellowfin tuna on an annual basis
13 since 1980. The Secretary shall publish a preliminary de-
14 termination in the Federal Register for comment for a pe-
15 riod not to exceed 60 days. The Secretary shall publish
16 a final determination not later than 140 days from the
17 date of the enactment of this section.

18 (b) Not later than June 1, 1996, the Secretary of
19 Commerce shall implement the recommendations of Inter-
20 national Commission for the Conservation of Atlantic
21 Tunas regarding yellowfin tuna.

22 **TITLE IV—FISHERMEN’S PROTECTIVE ACT**

23 **SEC. 401. FINDINGS.**

24 The Congress finds that—

1 (1) customary international law and the United
2 Nations Convention on the Law of the Sea guaran-
3 tee the right of passage, including innocent passage,
4 to vessels through the waters commonly referred to
5 as the “Inside Passage” off the Pacific Coast of
6 Canada;

7 (2) Canada recently required all commercial
8 fishing vessels of the United States to pay 1,500 Ca-
9 nadian dollars to obtain a “license which authorizes
10 transit” through the Inside Passage;

11 (3) this action was inconsistent with inter-
12 national law, including the United Nations Conven-
13 tion on the Law of the Sea, and, in particular, Arti-
14 cle 26 of that Convention, which specifically pro-
15 hibits such fees, and threatened the safety of United
16 States commercial fishermen who sought to avoid
17 the fee by traveling in less protected waters;

18 (4) the Fishermen’s Protective Act of 1967 pro-
19 vides for the reimbursement of vessel owners who
20 are forced to pay a license fee to secure the release
21 of a vessel which has been seized, but does not per-
22 mit reimbursement of a fee paid by the owner in ad-
23 vance in order to prevent a seizure;

1 (5) Canada required that the license fee be paid
2 in person in 2 ports on the Pacific Coast of Canada,
3 or in advance by mail;

4 (6) significant expense and delay was incurred
5 by commercial fishing vessels of the United States
6 that had to travel from the point of seizure back to
7 one of those ports in order to pay the license fee re-
8 quired by Canada, and the costs of that travel and
9 delay cannot be reimbursed under the Fishermen's
10 Protective Act;

11 (7) the Fishermen's Protective Act of 1967
12 should be amended to permit vessel owners to be re-
13 imbursed for fees required by a foreign government
14 to be paid in advance in order to navigate in the wa-
15 ters of that foreign country if the United States con-
16 siders that fee to be inconsistent with international
17 law;

18 (8) the Secretary of State should seek to re-
19 cover from Canada any amounts paid by the United
20 States to reimburse vessel owners who paid the tran-
21 sit license fee;

22 (9) the United States should review its current
23 policy with respect to anchorage by commercial fish-
24 ing vessels of Canada in waters of the United States
25 off Alaska, including waters in and near the Dixon

1 Entrance, and should accord such vessels the same
2 treatment that commercial fishing vessels of the
3 United States are accorded for anchorage in the wa-
4 ters of Canada off British Columbia;

5 (10) the President should ensure that, consist-
6 ent with international law, the United States Coast
7 Guard has available adequate resources in the Pa-
8 cific Northwest and Alaska to provide for the safety
9 of United States citizens, the enforcement of United
10 States law, and to protect the rights of the United
11 States and keep the peace among vessels operating
12 in disputed waters;

13 (11) the President should continue to review all
14 agreements between the United States and Canada
15 to identify other actions that may be taken to con-
16 vince Canada that any reinstatement of the transit
17 license fee would be against Canada's long-term in-
18 terests, and should immediately implement any ac-
19 tions which the President deems appropriate if Can-
20 ada reinstates the fee;

21 (12) the President should continue to imme-
22 diately convey to Canada in the strongest terms that
23 the United States will not now, nor at any time in
24 the future, tolerate any action by Canada which
25 would impede or otherwise restrict the right of pas-

1 sage of vessels of the United States in a manner in-
2 consistent with international law; and

3 (13) the United States should redouble its ef-
4 forts to seek expeditious agreement with Canada on
5 appropriate fishery conservation and management
6 measures that can be implemented through the Pa-
7 cific Salmon Treaty to address issues of mutual con-
8 cern.

9 **SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE**
10 **ACT OF 1967.**

11 (a) The Fishermen's Protective Act of 1967 (22
12 U.S.C. 1971 et seq.) is amended by adding at the end
13 the following new section:

14 “SEC. 11. (a) In any case on or after June 15, 1994,
15 in which a vessel of the United States exercising its right
16 of passage is charged a fee by the government of a foreign
17 country to engage in transit passage between points in the
18 United States (including a point in the exclusive economic
19 zone or in an area over which jurisdiction is in dispute),
20 and such fee is regarded by the United States as being
21 inconsistent with international law, the Secretary of State
22 shall reimburse the vessel owner for the amount of any
23 such fee paid under protest.

1 “(b) In seeking such reimbursement, the vessel owner
2 shall provide, together with such other information as the
3 Secretary of State may require—

4 “(1) a copy of the receipt for payment;

5 “(2) an affidavit attesting that the owner or the
6 owner’s agent paid the fee under protest; and

7 “(3) a copy of the vessel’s certificate of docu-
8 mentation.

9 “(c) Requests for reimbursement shall be made to the
10 Secretary of State within 120 days after the date of pay-
11 ment of the fee, or within 90 days after the date of enact-
12 ment of this section, whichever is later.

13 “(d) ~~such~~ *Such* funds as may be necessary to meet
14 the requirements of this section may be made available
15 from the unobligated balances of previously appropriated
16 funds remaining in the Fishermen’s Guaranty Fund estab-
17 lished under section 7 and the Fishermen’s Protective
18 Fund established under section 9. To the extent that re-
19 quests for reimbursement under this section exceed such
20 funds, there are authorized to be appropriated such sums
21 as may be needed for reimbursements authorized under
22 subsection (a).

23 “(e) The Secretary of State shall take such action
24 as the Secretary deems appropriate to make and collect

1 claims against the foreign country imposing such fee for
2 any amounts reimbursed under this section.

3 “(f) For purposes of this section, the term ‘owner’
4 includes any charterer of a vessel of the United States.

5 “(g) This section shall remain in effect until October
6 1, 1996.”.

7 (b) The Fishermen’s Protective Act of 1967 (22
8 U.S.C. 1971 et seq.) is further amended by adding at the
9 end the following:

10 “SEC. 12. (a) If the Secretary of State finds that the
11 government of any nation imposes conditions on the oper-
12 ation or transit of United States fishing vessels which the
13 United States regards as being inconsistent with inter-
14 national law or an international agreement, the Secretary
15 of State shall certify that fact to the President.

16 “(b) Upon receipt of a certification under subsection
17 (a), the President shall direct the heads of Federal agen-
18 cies to impose similar conditions on the operation or tran-
19 sit of fishing vessels registered under the laws of the na-
20 tion which has imposed conditions on United States fish-
21 ing vessels.

22 “(c) For the purposes of this section, the term ‘fish-
23 ing vessel’ has the meaning given that term in section
24 2101(11a) of title 46, United States Code.

1 “(d) It is the sense of the Congress that any action
2 taken by any Federal agency under subsection (b) should
3 be commensurate with any conditions certified by the Sec-
4 retary of State under subsection (a).”.

5 **SEC. 403. REAUTHORIZATION.**

6 (a) Section 7(c) of the Fishermen’s Protective Act of
7 1967 (22 U.S.C. 1977(c)) is amended by striking the third
8 sentence.

9 (b) Section 7(e) of the Fishermen’s Protective Act of
10 1967 (22 U.S.C. 1977(e)) is amended by striking “Octo-
11 ber 1, 1993” and inserting “October 1, 2000”.

12 **SEC. 404. TECHNICAL CORRECTIONS.**

13 (a)(1) Section 15(a) of Public Law 103–238 is
14 amended by striking “April 1, 1994,” and inserting “May
15 1, ~~1994,~~ 1994.”.

16 (2) The amendment made by paragraph (1) shall be
17 effective on and after April 30, 1994.

18 (b) Section 803(13)(C) of Public Law 102–567 (16
19 U.S.C. 5002(13)(C)) is amended to read as follows:

20 “(C) any vessel supporting a vessel de-
21 scribed in subparagraph (A) or (B).”.

1 **TITLE V—FISHERIES ENFORCEMENT IN**
2 **CENTRAL SEA OF OKHOTSK**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Sea of Okhotsk Fish-
5 eries Enforcement Act of 1995”.

6 **SEC. 502. FISHING PROHIBITION.**

7 (a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Sec-
8 tion 302 of the Central Bering Sea Fisheries Enforcement
9 Act of 1992 (16 U.S.C. 1823 note) is amended by insert-
10 ing “and the Central Sea of Okhotsk” after “Central Ber-
11 ing Sea”.

12 (b) DEFINITION.—Section 306 of such Act is amend-
13 ed—

14 (1) by redesignating paragraphs (2), (3), (4),
15 (5), and (6) as paragraphs (3), (4), (5), (6), and
16 (7), respectively; and

17 (2) by inserting after paragraph (1) the follow-
18 ing:

19 “(2) CENTRAL SEA OF OKHOTSK.—The term
20 ‘Central Sea of Okhotsk’ means the central Sea of
21 Okhotsk area which is more than two hundred nau-
22 tical miles seaward of the baseline from which the
23 breadth of the territorial sea of the Russian Federa-
24 tion is measured.”.

1 **TITLE VI—DRIFTNET MORATORIUM**

2 **SEC. 601. SHORT TITLE.**

3 This title may be cited as the “High Seas Driftnet
4 Fishing Moratorium Protection Act”.

5 **SEC. 602. FINDINGS.**

6 The Congress finds that—

7 (1) Congress has enacted and the President has
8 signed into law numerous Acts to control or prohibit
9 large-scale driftnet fishing both within the jurisdic-
10 tion of the United States and beyond the exclusive
11 economic zone of any nation, including the Driftnet
12 Impact Monitoring, Assessment, and Control Act of
13 1987 (title IV, Public Law 100–220), the Driftnet
14 Act Amendments of 1990 (Public Law 101–627),
15 and the High Seas Driftnet Fisheries Enforcement
16 Act (title I, Public Law 102–582);

17 (2) the United States is a party to the Conven-
18 tion for the Prohibition of Fishing with Long
19 Driftnets in the South Pacific, also known as the
20 Wellington Convention;

21 (3) the General Assembly of the United Nations
22 has adopted three resolutions and three decisions
23 which established and reaffirm a global moratorium
24 on large-scale driftnet fishing on the high seas, be-

1 ginning with Resolution 44/225 in 1989 and most
2 recently in Decision 48/445 in 1993;

3 (4) the General Assembly of the United Nations
4 adopted these resolutions and decisions at the re-
5 quest of the United States and other concerned na-
6 tions;

7 (5) the best scientific information demonstrates
8 the wastefulness and potentially destructive impacts
9 of large-scale driftnet fishing on living marine re-
10 sources and seabirds; and

11 (6) Resolution 46/215 of the United Nations
12 General Assembly calls on all nations, both individ-
13 ually and collectively, to prevent large-scale driftnet
14 fishing on the high seas.

15 **SEC. 603. PROHIBITION.**

16 The United States, or any agency or official acting
17 on behalf of the United States, may not enter into any
18 international agreement with respect to the conservation
19 and management of living marine resources or the use of
20 the high seas by fishing vessels that would prevent full
21 implementation of the global moratorium on large-scale
22 driftnet fishing on the high seas, as such moratorium is
23 expressed in Resolution 46/215 of the United Nations
24 General Assembly.

1 **SEC. 604. NEGOTIATIONS.**

2 The Secretary of State, on behalf of the United
3 States, shall seek to enhance the implementation and ef-
4 fectiveness of the United Nations General Assembly reso-
5 lutions and decisions regarding the moratorium on large-
6 scale driftnet fishing on the high seas through appropriate
7 international agreements and organizations.

8 **SEC. 605. CERTIFICATION.**

9 The Secretary of State shall determine in writing
10 prior to the signing or provisional application by the
11 United States of any international agreement with respect
12 to the conservation and management of living marine re-
13 sources or the use of the high seas by fishing vessels that
14 the prohibition contained in section 603 will not be vio-
15 lated if such agreement is signed or provisionally applied.

16 **SEC. 606. ENFORCEMENT.**

17 The President shall utilize appropriate assets of the
18 Department of Defense, the United States Coast Guard,
19 and other Federal agencies to detect, monitor, and prevent
20 violations of the United Nations moratorium on large-scale
21 driftnet fishing on the high seas for all fisheries under the
22 jurisdiction of the United States and, in the case of fish-
23 eries not under the jurisdiction of the United States, to
24 the fullest extent permitted under international law.

1 **TITLE VII—GOVERNING INTERNATIONAL**
2 **FISHERY AGREEMENT**

3 **SEC. 701. AGREEMENT WITH ESTONIA.**

4 Notwithstanding section 203 of the Magnuson Fish-
5 ery Conservation and Management Act (16 U.S.C. 1823),
6 the governing international fishery agreement between the
7 Government of the United States of America and the gov-
8 ernment of the Republic of Estonia as contained in the
9 message to Congress from the President of the United
10 States dated January 19, 1995, is approved as a govern-
11 ing international fishery agreement for the purposes of
12 such Act and shall enter into force and effect with respect
13 to the United States on the date of enactment of this Act.

S 267 RS——2

S 267 RS——3

S 267 RS——4

S 267 RS——5